

SOUTHERN ENVIRONMENTAL LAW CENTER

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VIA FOIAonline (foiaonline.regulations.gov)

U.S. Environmental Protection Agency
National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460

Re: Freedom of Information Act Request and Fee Waiver Request re: EPA's obligation to review and comment on environmental impacts pursuant to Section 102(2)(C) of the National Environmental Policy Act and Section 309 of the Clean Air Act

To the FOIA Officer:

This is a request for records in the custody of the United States Environmental Protection Agency ("EPA") submitted by the Southern Environmental Law Center ("SELC"). SELC is a non-profit, public-interest organization which advocates for, and represents other organizations that also advocate for, among other things, adequate implementation of and compliance with the National Environmental Policy Act by federal agencies.

A. Request for Records

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, please provide all records relating to:

1. Instructions, orders, expectations, priorities, moratoria, policies, practices, or procedures regarding EPA's obligation to review and comment on environmental impacts pursuant to Section 102(2)(C) of the National Environmental Policy Act and Section 309 of the Clean Air Act, communicated to any officer or staff person within the EPA, by any person elected, nominated for appointment, confirmed for appointment, or hired as part of the Trump Administration, beachhead team, or transition team ("member of the Trump Administration").

This request is intended to reach not only records created by members of the Trump Administration and thereafter communicated to officers or staff persons within the EPA, but also records created by officers or staff persons within the EPA based on, responding to, or relaying any communications from members of the Trump Administration.

This request is limited to records created, communicated, or received between the dates of November 8, 2016, and the date upon which this request is processed.

This request is further limited to records in the custody of any officer or employee of the Headquarters Office of the EPA, or any contractor thereof. The records we request could possibly be located in the following offices at EPA Headquarters, without limitation:

- Office of Regulatory Policy and Management, Office of Policy, Office of the Administrator
- Office of Federal Activities, Office of Enforcement and Compliance Assurance

For purposes of this request, members of the Trump Administration include, without limitation:

- Amy Oliver Cooke
- Myron Ebell
- Christopher Horner
- David Kreutzer
- Austin Lipari
- Steve Milloy
- David Schnare
- David Stevenson
- George Sugiyama
- Harlan Watson
- Larry Auther
- Layne Bangerter
- Donald Benton
- Patrick Davis
- Douglas Ericksen
- Holly Greaves
- John Konkus
- Charles Munoz
- Justin Schwab
- Scott Pruitt

As used above, the term “records” includes, without limitation, all communications, correspondence, records of phone conversations, transcripts of testimony, minutes or notes of meetings, electronic mail, PowerPoint or other similar presentations, memoranda, reports, maps, photographs, drawings, data, tables, spreadsheets, formulas, notes, observations, impressions, contracts, and policies or directives, whether in an electronic or print medium, original or copy, or draft or final form.

If records (or any portions thereof) are determined to be exempt for any reason, please provide any segregable material and indicate how much material has been withheld and on what grounds. 5 U.S.C. § 552(b); 7 C.F.R. § 1.7.

To the extent that the requested records are maintained in a common electronic format, we request that they be provided in that format.

B. Fee Waiver Request

We also request a fee waiver in connection with this request for records. Fee waivers are to be granted whenever disclosure would serve the public interest (as opposed to a commercial interest) and would contribute significantly to public understanding of government operations or activities. Here, the request would serve no commercial interest. SELC, a non-profit public interest organization, lacks any commercial interest in the records, and none of its clients have any such interest. SELC is dedicated to using the power of the law to protect clean air, clean water, and special places throughout the six Southeastern states in which we work: Alabama, Tennessee, Georgia, South Carolina, North Carolina, and Virginia. SELC does not charge its clients for legal advice or representation; instead, SELC provides such advice and representation free of charge within the scope of its mission.

We seek these records in order to inform the public about the policies and priorities of the Trump Administration with respect to EPA’s obligation to review and comment on environmental impacts under NEPA. At a time when members of Congress are proposing a variety of bills that would affect implementation of NEPA, and many major federal projects are currently or will be undergoing NEPA review, information about the Trump Administration’s policies and priorities are important to the public conversation. Disclosure of records responsive to this request will aid the public’s understanding of the Trump Administration’s policies and priorities and, consequently, any potential changes to implementation of NEPA obligations by the EPA. SELC has extensive experience in reviewing, understanding, synthesizing, and

communicating information relating to NEPA in our Southeastern states, furthering public understanding and dialogue.¹

Further, this enhanced understanding will accrue to a significant segment of the public. In addition to making information available online to anyone searching for it,² SELC also actively distributes information to the public through newsletters and other publications.³ SELC also disseminates information about issues related to NEPA by participating in meetings and conferences. Further, SELC coordinates with a diverse collection of partner organizations actively working to participate in NEPA processes. Each of these partners has its own base of supporters to which it will disseminate the information disclosed pursuant to this request. SELC's and its partners' supporters are directly affected by decisions made by federal agencies through the NEPA process. As a result, responsive information about the Trump Administration's policies and priorities will be shared with a substantial portion of the public, and, specifically, a portion of the public affected by and involved with participation in NEPA processes.

In reviewing this information and distilling it for the public, SELC's legal expertise will enable it to explain to the public the likely impacts of the Trump Administration's policies and priorities.

If this request for a fee waiver is denied, please notify us promptly and provide an estimate of the fees associated with the request. If you require any further information or documentation, please do not hesitate to contact us. Thank you for your prompt attention to this request.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Amanda Garcia', followed by a long horizontal line.

Amanda Garcia

Staff Attorney

¹ See <http://www.southernenvironment.org/news-and-press/in-the-news> for current examples of media coverage informed by information disseminated by SELC.

² For examples relevant to federal agencies and NEPA, please visit SELC's website at <https://www.southernenvironment.org/news-and-press/news-feed/federal-agency-fails-to-assess-need-for-pipeline-and-its-environmental-imp>; <https://www.southernenvironment.org/news-and-press/news-feed/epa-refutes-tva-claim-that-cap-in-place-coal-ash-plans-have-federal-blessin>; <https://www.southernenvironment.org/news-and-press/news-feed/tva-doubles-down-on-coal-ash-cover-up-plan-despite-growing-public-concern>.

³ To see some recent examples, please visit <http://www.southernenvironment.org/news-and-press/publications>.